**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION PETITION NO.336 OF 2004**

Ashok Leyland Finance Ltd. ..Petitioner.

Vs.

M/s.Ambarwadikar & Co. & Ors. ..Respondents.

Mrs.Shakuntala Joshi, Advocate for the Petitioner.

Ms.Asha Rasal i/b.Jagdish Reddy, Advocate for the Respondents.

**CORAM: S.J. VAZIFDAR, J.**
**DATED: 25TH OCTOBER, 2004**

**P.C. :**

This is a Petition under section 9 of the Arbitration and Conciliation Act, 1996. The Petitioner and the Respondent had entered into a hire purchase agreement dated 15.12.1999. The second schedule tabulates the due dates in respect of each of the instalments. The Petitioner's case is that the over due hire instalment of about Rs.3,90,216/- and additional finance charges of 18,22,527/- are due and payable by the Respondent.

2. The Respondent, by a letter dated 17.11.2003 enclosed a cheque of Rs.7,06,117/- of the same date in full and final settlement of the said agreement

as well as another hire purchase agreement. The learned counsel appearing on behalf of the Respondent states that separate cheques of the said amounts were paid in respect of each of the agreements.

3. The Petitioner by its letter dated 13.1.2004 disputed that the said sum was the only amount due and payable by the Respondent to the Petitioner. The Petitioner however accepted the said cheque.

4. The Petitioner is entitled to recover additional finance charges at the rate of 36% per annum under clause 18 of the said agreement only in the event of the Respondent failing to pay the amounts due from time to time. There is no evidence clearly indicating that default had been made in payment of the amount as per the second schedule.

5. However, prima-facie, it appears that the title in the vehicle has not passed to the Respondent. That in a matter which must ultimately be decided in the arbitration proceedings.

6. In the circumstances, the interest of justice would be met by the following order :

i) The Court Receiver, High Court, Bombay is appointed Receiver of the said vehicle. The Court Receiver shall however appoint the Respondent as his agent on the Respondent furnishing security to the satisfaction of the Court Receiver. No royalty however shall be payable by the Respondent.

ii) Till the Court Receiver takes possession, interim order in terms of prayer (c).

Petition stands disposed of accordingly.

Parties to act on an ordinary copy of this order duly authenticated by the Associate/Court Stenographer.